

**CALENDAR ITEM
C91**

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P. Griggs

**CONSIDER APPROVAL OF A TEMPORARY ADDENDUM
TO THE 1997 MEMORANDUM OF UNDERSTANDING BETWEEN
THE CITY OF LOS ANGELES, THE COUNTY OF INYO,
THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE;
THE STATE LANDS COMMISSION, THE OWENS VALLEY COMMITTEE,
AND THE SIERRA CLUB,
FOR A ONE-TIME, TEMPORARY MODIFICATION TO REQUIREMENTS RELATED
TO THE FLOW OF WATER TO THE OWENS RIVER DELTA HABITAT AREA
TO ALLOW
ONE-TIME TEMPORARY DROUGHT RELIEF TO MITIGATE
SEVERE LOCAL WATER SUPPLY CONSEQUENCES**

PARTIES:

The California State Lands Commission (Commission), Los Angeles Department of Water and Power (LADWP), Inyo County, California Department of Fish and Wildlife (CDFW, formerly known as the California Department of Fish and Game), the Sierra Club, the Owens Valley Committee, and Carla Scheidlinger.

BACKGROUND:

In 1913, the 62-mile reach of the Owens River, in the Owens Valley of Inyo County, was diverted to the Los Angeles Aqueduct to supply water to the city of Los Angeles. In 1991, the Los Angeles Department of Water and Power (LADWP) and Inyo County entered into the Inyo County/Los Angeles Long Term Water Agreement to provide environmental protection of the Owens Valley from the effects of groundwater pumping and water exports. This Agreement and a Final Environmental Impact Report (EIR) were submitted to the Third District Court of Appeal (Court) as a joint request to end ongoing litigation related to the groundwater pumping and water exports. Restoration of the Lower Owens River was identified in this 1991 EIR as mitigation for the impacts related to the groundwater pumping by LADWP from 1970 to 1990.

Subsequently, several state agencies and environmental groups challenged the legal adequacy of the 1991 EIR. In 1994, the Court ordered Inyo County and LADWP to respond to issues raised by these groups. After several years of discussions among the parties, a Memorandum of Understanding (MOU) was executed in 1997 to provide resolution regarding the concerns with the 1991 EIR and addressing the mitigation for impacts due to the long-term pumping and

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diversion activities in the Owens Valley. The California State Lands Commission is a party to the MOU along with LADWP, Inyo County, California Department of Fish and Wildlife (formerly known as the California Department of Fish and Game), the Sierra Club, the Owens Valley Committee and Carla Scheidlinger.

The MOU identified the overarching goal of the Lower Owens River Project (LORP) as the establishment of a healthy, functioning Lower Owens River riverine-riparian ecosystem, and the establishment of healthy, functioning ecosystems in the other physical features of the LORP, for the benefit of biodiversity and threatened and endangered species, while providing for the continuation of sustainable uses including recreation, livestock grazing, agriculture, and other activities (MOU, Section II B).

The LORP includes several elements designed to provide compensatory mitigation for impacts related to LADWP's groundwater pumping that could not easily be quantified and mitigated directly:

- Releasing a permanent base flow of 40 cubic feet per second (cfs) with higher seasonal habitat flows to the Lower Owens River to enhance native and game fisheries and riparian habitats along 62 miles of the river;
- Providing an annual average of 6 to 9 cfs plus seasonal pulse flows to the Owens River Delta Habitat Area (Delta Habitat Area) to maintain and enhance various wetlands and aquatic habitats;
- Enhancing a 1,500 acre off-river area with seasonal flooding and land management to benefit wetlands and waterfowl;
- Maintaining several off-river lakes and ponds; and
- Improving range management and modifying grazing practices on leases in the LORP area.

The majority of the Delta Habitat Area is state-owned land under the jurisdiction of the Commission. The goal for the Delta Habitat Area is to enhance and maintain approximately 325 acres of existing wetland habitat suitable for shorebirds, waterfowl, and other wildlife. The Delta contains two major channels, the east branch and the west branch.

The EIR required by the MOU for the LORP was certified by the LADWP Board of Commissioners in July 2004. After additional litigation, LADWP complied with implementing the LORP, and the 40 cfs base flow into the Lower Owens River began on December 6, 2006.

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CURRENT SITUATION:

The Eastern Sierra region, including the Owens Valley, is experiencing the fourth year of extreme drought. The April 1, 2015, snowpack was measured to be 4 percent of normal, the lowest April 1 snowpack on record. The resulting estimated runoff forecast for the Eastern Sierra is 36 percent for the entire runoff year. The total Eastern Sierra Owens Valley supply of water this year is estimated to be 279,000 acre-feet (AF) as compared to 541,000 AF in an average year. Contributing to the extremely low runoff is that the three previous years had runoffs of 57 percent, 54 percent, and 52 percent of normal, respectively. These were the lowest three consecutive runoff years on record, and, now, with this year, will be the four lowest consecutive runoff years on record.

As a result of the severe state-wide drought, Governor Edmund G. Brown Jr. proclaimed a State of Emergency on January 17, 2014. Since that time, the Governor has issued additional proclamations and executive orders responding to the ongoing drought and State of Emergency. At the local level, Inyo County's Board of Supervisor approved Resolution 2014-09 Proclaiming a Local Drought Emergency on January 28, 2014. At the federal level, Inyo County has been designated as a Drought Disaster area by the U.S. Department of Agriculture.

In response to the drought, LADWP is dramatically reducing the amount of water it normally provides for irrigation purposes to its rancher lessees in Inyo County from approximately 49,000 AF in a normal year to approximately 21,500 AF or less this year. Agriculture in Inyo County is second only to tourism in its importance to the local economy, generating about \$20 million annually. Ranchers depend on irrigated pasture for their cattle herds. Inyo County and LADWP have been negotiating an agreement to provide a limited amount of additional water to the ranchers from supplies allocated through the MOU and other agreements to the Lower Owens River, Delta Habitat Area, and other LORP habitat areas.

The proposed LORP reductions include modifying the Lower Owens River base flow from 40 cfs to 25 cfs, modifying the Delta Habitat Area annual average flows of 6 to 9 cfs to 2.0 cfs from July 1 (or as early as June 22) through July 31, 2015, to 7.5 cfs from August 1 through September 30; to 2.0 cfs from October 1 to November 30. These and other reductions (not affecting lands under the Commission's jurisdiction) are expected to result in approximately 2,000 to 3,000 AF of water that LADWP will make available for irrigation of LADWP-owned land in the Owens Valley during the period July 1, 2015, through September 30, 2015, if the parties to the MOU agree. The CDFW, also a party to the MOU, has not yet made a final decision on whether to agree to these reductions under the terms that LADWP and Inyo County have proposed.

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Because of the drought emergency, four of the parties to the MOU have agreed in concept to these reductions on a one-time, non-precedent setting basis. A final agreement has not been reached by the MOU parties; however, Commission staff believes the parties may be close to an agreement. Staff recommends a delegation of authority to the Executive Officer to sign the Temporary Addendum to the MOU that accomplishes the purposes described above, provided CDFW staff confirms that adequate terms to protect the long-term Lower Owens River flows and habitat, and protective measures satisfactory to CDFW staff are included. The Temporary Addendum to the MOU would terminate on April 1, 2016, when all the terms and conditions of the MOU shall be in full force and effect.

OTHER PERTINENT INFORMATION:

The staff recommends that the Commission find that this activity is exempt from the requirements of CEQA as a statutorily exempt project. The project is exempt because it involves a specific action to prevent or mitigate an emergency.

Authority: Public Resources Code section 21080, subdivision (b)(4) and California Code Regulations, Title 14, section 15269, subdivision (c).

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDINGS:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15061 as a statutorily exempt project pursuant to Public Resources Code section 21080, subdivision (b)(4) and California Code of Regulations, Title 14, section 15269, subdivision (c), specific actions necessary to prevent or mitigate an emergency.

AUTHORIZATION:

Authorize the Executive Officer, subject to CDFW staff confirmation of sufficient protective terms and conditions in the agreement, to approve a Temporary Addendum to the 1997 Memorandum of Understanding between the City of Los Angeles Department of Water and Power, the County of Inyo, the California Department of Fish and Wildlife, the California State Lands Commission, the Sierra Club, the Owens Valley Committee, and Carla Scheidlinger, that accomplishes the purposes as described herein.